

ORIGINAL
INTERVENTION



BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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AZ CORP COMMISSION
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IN THE MATTER OF THE APPLICATION OF
ARIZONA WATER COMPANY TO EXTEND ITS
EXISTING CERTIFICATE OF CONVENIENCE
AND NECESSITY FOR ITS COOLIDGE
SYSTEM, PINAL COUNTY, ARIZONA.

DOCKET NO. W-01445A-06-0317

MOTION TO INTERVENE

Santa Cruz Water Company, LLC; Palo Verde Utilities Company, LLC; Global Water – Santa Cruz Water Company and Global Water – Palo Verde Utilities Company (collectively, “Global”) move that they be granted intervention in this case. Global is a competitor of the applicant in this case, Arizona Water Company (AWC). This case is a part of a series of massive proposed CC&N extensions by AWC in Pinal County. Global is interested in the area in question, and it is directly affected because it will be forever barred from the area if the area is granted to AWC. In support of this motion, Global states as follows:

I. AWC’s land grabs in Pinal County directly and substantially affect Global.

This case is part of AWC’s recent series of gigantic CC&N extension requests in Pinal County. In the last few months, AWC filed the following Applications:

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Arizona Corporation Commission

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| Docket No. | Date Filed | Nearest City | Area (Acres) | % of Area Requesting Service |
|--------------|------------------|--------------|---------------------|------------------------------|
| 06-0059 | February 1, 2006 | Casa Grande | 6,400 ¹ | 50 % |
| 06-0199 | March 29, 2006 | Casa Grande | 70,494 ² | 0.3 % |
| 06-0317 | May 4, 2006 | Coolidge | 20,223 ³ | 39 % |
| Total | 92 days | | 97,117 | 11.6 % |

Thus, in the span of little more than 90 days, AWC filed requests for about 97,000 acres, or about 152 square miles. As AWC's main competitor in Pinal County, Global is directly affected by this flurry of applications. Global will be banned from this entire 152 square mile area if AWC is successful.

Moreover, AWC's sweeping series of requests will affect all of Pinal County for decades to come. Using standard planning assumptions, this vast area could ultimately have 303,000 homes (63,000 homes in this case alone).⁴ Some of the potential impacts include:

(1) **Water Conservation.** Historically, AWC used only groundwater to serve its Casa Grande and Coolidge systems. Moreover, the Staff Engineering Report in this case mentions only groundwater. Using only groundwater in the vast 152 square miles requested by AWC's pending applications could have dire consequences, both for the environment, and for the landowner's property values. Global's water conservation strategy for the region is based on the "triad of conservation": (1) re-use of reclaimed water; (2) using renewable surface water; and (3) recharging the aquifer with excess reclaimed or surface water. These strategies can dramatically reduce reliance on groundwater. AWC historically has not used these any of these strategies this

¹ See Exhibit 2 (Engineering Report) to the Staff Report dated April 3, 2006. (Approximately 10 square miles times 640 acres/square mile equals 6,400 acres.)

² See AWC Response to Staff's Insufficiency Letter, dated July 7, 2006, at Attachment B.

³ See Exhibit 3 to the Staff Report dated June 22, 2006.

⁴ A relatively accepted industry standard assumption is 2,000 dwelling units per section, or 3.125 per acre. For the three AWC Pinal County cases, 97,117 acres times 3.125 equals 303,490 dwelling units. For this case alone, 20,223 acres times 3.125 equals 63,196 dwelling units.

1 region, and there is no evidence in the record that they will change.⁵ Recent calculations show that
2 the Pinal Active Management Area ("AMA") has a renewable groundwater supply of about 82,000
3 acre feet per year on an average annual basis.⁶ This real "wet water" sharply contrasts to 408,000
4 acre feet of "paper water" that can already be allocated for withdrawal. Failure to use cutting-edge
5 conservation strategies in such a vast area would impact the availability of groundwater for the
6 entire region – including Global's proposed service area. Therefore, Global will be directly and
7 substantially affected by this case.

8 (2) **Wastewater.** AWC has provided no information about how wastewater and
9 reclaimed water services will be provided; nor has it identified what utility, if any, will provide
10 those services for the area. If AWC is proposing the use of septic systems for this vast area, it may
11 have large environmental effects on the entire region, including Global's proposed service area.
12 Moreover, as a major wastewater provider in Pinal County, Global may face strong pressure to
13 serve these areas if the selected provider fails, or if no other provider is found. But Global's
14 business model does not include providing "stand-alone" wastewater services, and is instead based
15 on providing integrated water, wastewater, and reclaimed water services. The Commission noted
16 the superiority of this integrated model in the Woodruff case, Decision No. 68453 (Feb. 22, 2006).

17 (3) **Requests for Service.** AWC has requests for service from about 39% of the
18 requested area in this case.⁷ For AWC's series of three big Pinal County cases, it has requests for
19 about 12% its proposed extension areas.⁸ The Commission protects both the public interest and
20 landowner rights by requiring requests for service to support an extension area. This principle is
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23 ⁵ There is, however, a cryptic reference to a "Future... Water Treatment Plan for CAP" on a map. Global will explore
24 this and other conservation related matters in discovery, if it is granted intervention in this matter.

25 ⁶ From the Pinal Active Management Area Groundwater User's Advisory Committee "Assured Water Supply
26 Modifications Concepts" draft dated December 29, 2005.

27 ⁷ See Exhibit 3 to the Staff Report dated June 22, 2006, which shows six parcels with requests (plus a proposed
treatment site of 68 acres) for a total of 7,880 acres with requests, out of a total of 20,223 acres. $20,223/7,889 = 39.01\%$.

⁸ AWC has requests for about half of the area in docket 06-0059 (6,400 acres times $\frac{1}{2} = 3,200$ acres). AWC has
requests for 7,880 acres in this docket. And it has requests for 197 acres in docket 06-0199. $3,200 + 7,880 + 197 = 11,277$ acres. 11,277 acres divided by 97,117 total acres = 11.61%.

1 well-established, and the Commission uses it to decide many cases.⁹ AWC seeks to lock-up
2 85,840 acres in Pinal County (12,343 acres in this case alone) that do not have requests for
3 service.¹⁰ If AWC succeeds, Global will be forever barred from providing water service to these
4 gigantic areas, even though AWC has no landowner requests for these acres. Global's core market
5 is Pinal County, and it explores business opportunities throughout this region. Thus, Global will
6 be directly and substantially affected by the loss of potential business opportunities.

7 In addition, both landowners and Global will also be directly and substantially affected by
8 AWC's attempt to forbid Global and the landowners from speaking to each other. AWC is
9 currently suing Global, claiming that Global cannot even talk to landowners in AWC's certificated
10 area, or even in adjacent areas.¹¹ An extension in this case directly impacts Global by extending
11 the area subject to AWC's claim. Moreover, if AWC is successful in that claim, Global's free
12 speech rights will be sharply curtailed in the extension area, and adjacent areas. Global is
13 therefore directly and substantially affected by this case.

14 The Commission's rules provide that entities "who are directly and substantially affected
15 by the proceedings" may request leave to intervene. A.A.C. R14-3-105(A). Here, Global will be
16 directly and substantially affected by: (1) the likely depletion of aquifers from development of such
17 a large area, if water conservation measures, such as the "triad of conservation," are not used; (2)
18 the impact to Global as a major, regional wastewater provider from the lack of a identified,
19 competent wastewater provider for the large extension area; (3) the loss of potential business
20 opportunities in the extension area; (4) the expansion of the area where AWC seeks limits on
21 Global's speech; (5) the cumulative impact of AWC's rapid filing of applications for 152 square
22 miles of Pinal County.

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24 ⁹ See *Beardsley Water Co.*, Decision No. 59396 (Nov. 28, 1995) at 2; *Woodruff Water Co.*, Decision No. 68453 (Feb.
25 2, 2006) at 29; *Lyn Lee Water Co.*, Decision No. 68445 (Feb. 2, 2006) at Finding of Fact No. 22; *H2O, Inc. et al.*,
26 Decision No. 64062 (Oct. 4, 2001) at Finding of Fact No. 48; *Johnson Utilities Co.*, Decision No. 64288 (Dec. 28,
2001) at Finding of Fact Nos. 47, 70, and 84; *Diversified Water Utilities, Inc.*, Procedural Order dated May 11, 2005
27 at 4 in Docket Nos. W-02859A-04-0844 et al. These cases are reviewed at greater length in the Motion to Dismiss
filed by Global in Docket No. W-01445A-06-0199 et al.

¹⁰ 97,117 total acres minus 11,277 acres with requests equals 85,840 acres without requests. For this case, 20,223
acres total acres minus 7,880 acres with requests equals 12,343 acres without requests.

¹¹ See Count 3 of the Complaint filed by AWC in Docket No. W-01445A-06-0200 et al.

1 **II. Global will not unduly expand the issues in this case.**

2 The Commission's rules also provide that intervention will not be granted where the issues
3 "will be unduly broadened, except upon leave of the Commission first had and received." A.A.C.
4 R14-3-105(B). The "controlling factor in decisions concerning service of water by water
5 companies" is the public interest, and this remains the standard for deciding CC&Ns cases. *James*
6 *C. Paul Water Co. v. Arizona Corp. Comm'n*, 137 Ariz. 426, 429, 671 P.2d 404, 407 (1983); *see*
7 *also Pueblo Del Sol Water Co. v. Arizona Corp. Comm'n*, 160 Ariz. 285, 286, 772 P.2d 1138,
8 1139 (App. 1988). Thus, key issue in any CC&N case is the public interest. The factors noted
9 above – water conservation, wastewater service, and requests for service – are part and parcel of
10 the public interest determination the Commission must make in this case. Therefore, Global's
11 intervention will not "unduly broaden" the issues.

12 Global is aware that Staff has expressed concern in other cases that intervention by the
13 Robson Utilities in AWC cases would result in broadening the issues by requiring a comparison
14 between rival utilities. So that there is no confusion, Global does not intend to present a
15 comparison between Global and AWC in this case. Nor does Global expect any other party to
16 make such a comparison. Instead, the relevant comparison is between granting a CC&N to AWC
17 and not granting one to anyone (at least for the areas without requests for service). In this case, as
18 in any other case, the Commission can say "no" to an application (in whole or part). It should do
19 so in this case, just as it has in many other cases without requests for service.


20 Given the broad nature of the public interest issue in this case, Global's proposed
21 intervention will not broaden the issues in this case. But even if the issues are broadened, the
22 broadening will not be "undue" because of the importance of factors Global will raise to the
23 Commission's public interest analysis in this case. However, should the Commission find that the
24 issues will be "unduly broadened", Global requests leave to do so under A.A.C. R14-3-105(B) in
25 light of the importance of these matters to future of Pinal County.

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1 **III. Conclusion.**

2 For these reasons, Global respectfully requests that it be granted intervention in this case.
3 RESPECTFULLY SUBMITTED this 10th day of August 2006.

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11 Original and 13 copies of the foregoing
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